

**To:** Strauss, Alexis[Strauss.Alexis@epa.gov]  
**Cc:** Montgomery, Michael[Montgomery.Michael@epa.gov]; Albright, David[Albright.David@epa.gov]; Torres, Tomas[Torres.Tomas@epa.gov]; Walsh, Ed[Walsh.Ed@epa.gov]  
**From:** Maier, Brent  
**Sent:** Mon 6/20/2016 5:35:26 PM  
**Subject:** RE: enhanced aquifer recharge

Alexis –

Per Ed's request (included below), on a separate issue, I shared the following on Friday of last week with Mike Montgomery and David Albright from Kyle Lombard, Legislative Director in Rep. Kevin McCarthy's office regarding the same heads-up about bill and report language in the FY17 Interior appropriations bill on aquifer exemptions . Here is the note I shared with Mike and David last Friday.

Brent

Mike/David –

Please see message below from Kyle Lombardi, Legislative Director in Rep. Kevin McCarthy's office acknowledging his availability for our Monday, July 11<sup>th</sup> update call, but he also provided in his message some bill text and report language in the FY2017 Interior Appropriations Bill on aquifer exemption issue. Please let me know if you need me to raise this with any of the HQ Congressional Water Team if any of the language is of concern. Thanks.

Brent Maier

Congressional Liaison

U.S. Environmental Protection Agency, Region IX

75 Hawthorne St. (OPA-3)

San Francisco, CA 94105

Ph: 415.947.4256

**From:** Lombardi, Kyle [<mailto:Kyle.Lombardi@mail.house.gov>]

**Sent:** Friday, June 17, 2016 6:29 AM

**To:** Maier, Brent <[Maier.Brent@epa.gov](mailto:Maier.Brent@epa.gov)>; Fong, Vince <[Vince.Fong@mail.house.gov](mailto:Vince.Fong@mail.house.gov)>

**Subject:** RE: Proposed Update Call with EPA on Arroyo Grande Aquifer Exemption Permit

Hi Brent,

That works for me. Talk to you guys then.

Also, I figure you already know, but just wanted to make sure you saw the bill text and report language Congressman McCarthy was able to secure in the FY17 Interior appropriations bill on this issue. I've pasted it below for you review. The language is designed to help ensure that EPA can continue to protect groundwater drinking resources while processing oil & gas exempt aquifer applications in an expeditious manner.

Bill Text:

*The Administrator of the Environmental Protection Agency shall apply the criteria and procedures in effect as of the date of enactment of this Act for aquifer exemptions under the underground injection control regulatory framework, in a collaborative manner with the States and regulated industries, to promptly review and make decisions on all aquifer exemption applications using the criteria for exempted aquifers set forth in section 146.4 of title 40, Code of Federal Regulations (as in effect on April 1, 2016). The Administrator shall not use substantial program revisions for purposes of reviewing and making decisions on aquifer exemption applications involving underground injection authorized by permit, provided the injection is occurring into aquifers that meet the criteria for an exemption under such section 146.4 and the recommendations of key State resource agencies are taken in account.*

Report Language:

*Exempt Aquifers.—Protecting underground sources of drinking water while ensuring robust economic development is of critical importance to the Committee. Existing criteria and procedures for aquifer exemptions under EPA’s Underground Injection Control (UIC) regulations for all classes of injection wells are sufficiently flexible to address new and changed circumstances, including the development of significant new information regarding what can or cannot reasonably be expected to serve as a source of drinking water. The Committee believes that amendments to these criteria are not necessary or warranted for purposes of processing any pending or proposed applications. EPA is directed to work within the existing UIC regulatory framework, in a collaborative manner with the States, the energy producing industry, and all other stakeholders that rely on UIC operations, to promptly review and process all aquifer exemption applications submitted to the Agency, including applications for Class II injection by permit, to ensure robust oil and natural gas production in the States, and promote associated economic development and national security benefits, while simultaneously continuing to protect the Nation’s underground sources of drinking water.*

*Consistent with EPA’s Guidance for Review and Approval of State UIC Programs and Revisions to Approved State Programs, GWPB Guidance #34, aquifer exemption applications involving underground injection authorized by permit shall not be processed as substantial program revisions, provided the injection is occurring into aquifers that meet the criteria for an exemption set forth in 40 CFR 146.4 (as in effect on April 1, 2016), and the recommendations of key State resource agencies are taken in account. Notwithstanding the foregoing, the following aquifer exemption categories may be processed as substantial program revisions, irrespective of authorization by permit, to ensure consistency with GWPB Guidance #34 and 40 CFR 144.7(d), respectively: (1) exemptions involving Class I injection into aquifers containing water less than 3,000 mg/l TDS; and (2) exemptions involving expansion of the areal extent of Class II aquifer exemptions for the purpose of Class VI injection.*

Let me know if you have any questions. Thanks again,

Kyle

Kyle Lombardi

*Rep. Kevin McCarthy*

202-225-2915

Brent Maier

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**From:** Walsh, Ed

**Sent:** Monday, June 20, 2016 10:27 AM

**To:** Strauss, Alexis <Strauss.Alexis@epa.gov>; Maier, Brent <Maier.Brent@epa.gov>

**Subject:** Fwd: enhanced aquifer recharge

Hi Alexis and Brent. Wanted to get a regional perspective on this request.

Best

Ed

Begin forwarded message:

**From:** "Gray, Jason" <Jason.Gray@mail.house.gov>

**Date:** June 20, 2016 at 11:47:20 AM EDT

**To:** "Walsh, Ed" <Walsh.Ed@epa.gov>

**Subject:** enhanced aquifer recharge

Hi Ed – Can you have ORD offer some feedback on the enhanced aquifer language in both the House and Senate bills. I've pasted both below – very similar. We have a meeting next

week and it would be helpful to know what the Agency thinks...just for my background. No need for a formal effects statement. General thoughts by next Monday, COB?

Thanks

Jason

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### **House (under Research: Safe and Sustainable Water Resources)**

Further, the Committee believes augmenting drinking water supplies through artificial or enhanced recharge into aquifers could represent a cost-effective way of increasing the availability of water. Enhanced Aquifer Recharge (EAR) also represents a key practice for the management and restoration of ecosystems. EAR may involve the use/injection of treated drinking water, treated wastewater or collected storm water. However the most promising systems have focused on the use of surface water diversion during high flow periods. Therefore, the Committee directs EPA research efforts to establish a best practices approach for EAR, and to the extent feasible, coordinate with other Federal research efforts in this area.

### **Senate (under Additional Guidance)**

Enhanced Aquifer Use.—The Committee notes ground water levels are continuing to decline across the Nation from decades of aquifer use. Augmenting drinking water supplies through artificial or enhanced recharge into aquifers represents a cost-effective way of

increasing the availability of water and to address seasonal scarcity. Enhanced Aquifer Recharge [EAR] also represents a key practice for the management and restoration of ecosystems. EAR may involve the use or injection of treated drinking water, treated wastewater or collected storm water. However the most promising

systems have focused on the use of surface water diversion during high flow periods. The Committee further notes that in much of the West, the availability of new allocations of surface waters is severely limited or non-existent. Ground water supplies in many areas are stressed by over use and decreasing natural recharge. While conservation and recovery are key water resource management tools, EAR represents a significant approach to creating new

water supplies. The conversion of storm-flow, during times of excess supply, to base-flow and ground water based drinking water supplies, for times of high demand, provides a new resource management approach for the Nation's water needs. The Committee

urges the Agency to coordinate with the United States Geological Survey to support research efforts designed to establish a best practices approach for EAR.